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Attorney for Respondents

**IN THE UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

UNION OF AMERICAN PHYSICIANS AND  
 DENTISTS

Petitioner,

vs.

CALIFORNIA DEPARTMENT OF  
 CORRECTIONS AND REHABILITATION; Peter  
 Farber-Szekrenyi, M.D.; RENEE KANAN, MD;  
 DOES I THRU XX,

Respondents.

) Case No. C 05-03630 TEH

) **STIPULATION OF DISMISSAL;**  
 ) **[proposed] ORDER**

) (Fed. R. Civ. P. 41(a)(1)(ii))

The parties, through the signatures of their counsel on this Stipulation, stipulate to dismiss this action without prejudice according to the terms of the settlement agreement attached to the Proposed Stipulated Order and incorporated by reference in that Order.

1 DATED: March ~~30~~ 2007

DAVIS, COWELL & BOWE, LLP

2 By: 

Andrew J. Kahn

Paul L. More

Attorneys for Petitioner

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4  
5 DATED: March ~~29~~, 2007

HANSON, BRIDGETT, MARCUS, VLAHOS &  
RUDY, LLP,

6  
7  
8 By: 

Jerrold C. Schaefer

Paul B. Mello

Attorneys for Respondents

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12 ~~[PROPOSED]~~ ORDER

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14 The Court has reviewed the Stipulation set forth above and the terms and conditions of the  
15 Settlement Agreement attached to this Order as Exhibit 1 and incorporated in this Order as if fully  
16 set forth in it. Accordingly,

17 IT IS ORDERED that:

- 18 1. This matter is dismissed without prejudice;
- 19 2. The dismissal is expressly conditioned on the terms and conditions of the Settlement
- 20 Agreement attached to and incorporated in this Order;
- 21 3. The Court retains jurisdiction of this matter for the purposes of taking any action
- 22 needed to enforce the terms of the attached Settlement Agreement, which is a part of this Order; and
- 23 4. Each party is to bear its own costs and attorneys' fees, as provided for in the
- 24 Settlement Agreement.

25  
26 Dated: 04/02/07

27  
28  THELTON E. HENDERSON

STIPULATION OF DISMISSAL ~~[PROPOSED]~~ ORDER

Case No. C 05-03630 TEH

## SETTLEMENT AGREEMENT

### I. PRELIMINARIES AND PARTIES

This Settlement Agreement is made by and among the parties to *Union of American Physicians and Dentists v. California Department of Corrections and Rehabilitation* (United States District Court, Northern District of California, Case No. 05-03630 TEH) (hereinafter, the “action”): the Union of American Physicians and Dentists (“UAPD”) and the California Department of Corrections and Rehabilitation (“CDCR”) and James Tilton, in his capacity as Secretary of the California Department of Corrections and Rehabilitation. The parties enter into this Settlement Agreement for the purpose of setting forth the terms under which the parties shall stipulate for the dismissal of the aforementioned action.

### II. DISMISSAL OF ACTION

The parties agree to the dismissal of the action without prejudice, provided that Petitioner recognizes and acknowledges that the California State Personnel Board’s decision in *In the Matter of the Appeals of Jack Friedman, M.D. and John S. Colocousis, M.D.*, SPB Case No. 05-2596A (December 5, 2006) (hereinafter *Friedman/Colocousis*) holds that “the Department was legally entitled to direct appellants to attend the QICM evaluation,” and provided that Petitioners shall not re-institute this action unless and until the SPB’s holding in *Friedman/Colocousis* that the CDCR is legally entitled to direct CDCR physicians to take the QICM examination is overturned by a judicial court or by the SPB. The parties agree that this Settlement Agreement does not toll or otherwise extend any applicable statutes of limitation.

Within five (5) business days of the execution of this Settlement Agreement, the

parties, through their counsel, shall jointly execute and file with the Court a Stipulation of Dismissal, dismissing this action without prejudice. This Settlement Agreement shall be attached to the proposed order dismissing the action and shall be incorporated into said Order as if fully set forth therein.

### III. COSTS AND ATTORNEYS' FEES

Each party shall bear its own costs and attorneys' fees incurred in this action.

DATED: March ~~30~~ 2007

DAVIS, COWELL & BOWE, LLP

By: 

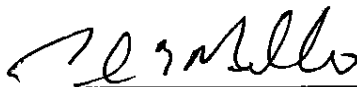
Andrew J. Kahn

Paul L. More

Attorneys for Petitioner

DATED: March ~~29~~ 2007

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